

## 515.51 - Producer Eligibility

### A. Overview

To be eligible to participate in EQIP, an applicant must be an individual, entity or joint operation and meet all of the following eligibility criteria:

- (i) Be an agricultural producer that is engaged in livestock or agricultural production as defined in this section.
- (ii) Have an interest in the farming operation associated with the land being offered for enrollment in EQIP.
- (iii) Have control of the land for the term of the proposed contract. For structural and vegetative practices, the applicant must submit a written concurrence by the landowner at the time of the application. (See [440-CPM, Section 515.52](#)).
- (iv) Be in compliance with the provisions for protecting the interests of tenants and sharecroppers, including the provisions for sharing EQIP payments on a fair and equitable basis.
- (v) Be in compliance with the highly erodible land and wetland conservation compliance provisions.
- (vi) Be within appropriate payment limitation requirements.
- (vii) Be in compliance with AGI requirements.

**Note:** Federal and State governments and political subdivisions thereof are not eligible; however land that they own may be eligible if leased to an eligible agricultural producer (See [440-CPM, Section 515.52](#)). These entities may be listed with 0 percent shares on an EQIP contract in cases where they are the owner of the land. These entities may include state agencies, state universities, and other state funded organizations.

### B. Responsibility for Determinations

NRCS Field Offices will:

- (i) Comply with contracting policy eligibility requirements contained in [440-CPM, Section 512.22](#).
- (ii) Make agricultural producer eligibility determinations (verify whether an applicant is an agricultural producer and does not exceed the program payment limitation).
- (iii) Determine interest in the farming operation using a web service accessed by ProTracts.
- (iv) Make land eligibility determinations in accordance with [440-CPM, Section 515.52](#).

**Note:** Adjusted Gross Income (AGI) is a payment eligibility determination that is applicable beginning with FY 2003 contracts. AGI eligibility determination for EQIP is made at the time of contract approval and is applicable for the entire contract term. AGI verifications are handled through ProTracts.

### C. Determining Eligibility as an Agricultural Producer

(1) NRCS has responsibility for notifying the applicant if they determine producer eligibility criteria are not met and to provide appeal rights according to [440-CPM, Part 510](#).

(2) An applicant is eligible if all of the following are met:

- (i) The applicant is an individual, entity, or joint operation.
- (ii) The applicant is engaged in livestock or agricultural production as defined in this section.
- (iii) The land being offered for enrollment in EQIP is used in agricultural or livestock production as defined in this section.
- (iv) Producers with forest land must have one of the following:

- A forest management plan or forest stewardship plan
- A prior record of timber harvest or revenue from Timber sales
- Proof of capital investment on forest practices such as:
  - Tree plantings
  - Forest Stand Improvement
  - Site Preparation
  - Prescribed burning
- Other Agro forestry practices
- Other agricultural commodities
- Other crops used for subsistence
- Other crops as identified by the State Conservationist with the advice of the State Technical Committee

(v) In order to be considered an agricultural producer there must be an annual minimum of \$1,000 of agricultural products produced and/or sold from the operation. If there were reasons beyond the producers control (i.e. climatic conditions such as drought) to meet this \$1,000 annual minimum then documentation must verify that the \$1,000 minimum has been met two of the last five years. An acceptable form of proof of documentation may be an IRS form 1040 Schedule F, or other accounting records certified by a tax preparer, that show profit or loss from farm operations. States should supplement this policy in order to provide clearer guidance based on state and local needs.

**Note:** Forest agricultural producers are exempt from the \$1,000 requirement; however, they must meet the other producer eligibility criteria within this section.

(vi) State Conservationists, with advice from the State Technical Committee, may further define criteria necessary for determining agricultural producer and agricultural production eligibility.

**Notes:** To be eligible for EQIP, an applicant who certified as a beginning farmer or rancher must also be determined as an agricultural producer.

Foreign individuals and entities may be determined eligible producers provided they meet the provisions of this section.

Agricultural support businesses such as agricultural supply buyers and sellers are not eligible to participate in EQIP. Likewise, producer organizations and cooperatives that provide support but do not meet the above criteria are not eligible.

(3) In addition to the above criteria:

(i) **Agricultural production** is defined as farm or ranch operations involving the production of crops including but not limited to:

- Grains or row crops
- Tobacco
- Seed crops
- Vegetables or fruits
- Hay, forage, or pasture
- Orchards or vineyards
- Flowers or bulbs
- Naval stores
- Field-grown ornamentals
- Plant materials
- Plant materials in green houses
- Trees, including private non-industrial forest land

Livestock production is defined as farm or ranch operations involving the production, growing, raising, or reproducing of livestock or livestock products:

(ii) For food or fiber, including but not limited to the following:

- Dairy cattle
- Beef cattle
- Buffalo
- Poultry
- Turkeys
- Swine
- Sheep or goats
- Horses
- Fish or other animals raised by aquaculture
- Ostriches or emu
- Other livestock or fowl

(iii) Other animals as identified by the State Conservationist with the advice of the State Technical Committee.

#### **D. Determining Eligibility as Separate Individual or Entity**

(1) To be considered as a separate individual or entity for the purposes of EQIP, (other than an individual or entity that is a member of a joint operation), in addition to other provisions of this section, all of the following must apply.

(2) Has a separate and distinct interest in the land or the agricultural or livestock production involved.

(i) Exercises separate responsibility for such interest.

(ii) Maintains funds or accounts separate from that of any other individual or entity for such interest.

#### **E. Determining Payment Limitations**

(1) A payment limitation service is available in ProTracts to provide the balance of payment limitations available for contract approval to ensure that a participant has not received payments exceeding the \$450,000 dollar limit. The payment calculation will consider all EQIP payments received from 2002 or newer contracts either direct or indirectly.

(2) ProTracts will use web service information available from FSA to determine the following information which is necessary to track payment limitations:

(i) Names of all members of the entity

(ii) Names of all members of any embedded entities

(iii) Percentage share for all members

(iv) Social Security Numbers for all members (Where applicable; American Indians, Alaska Natives and Pacific Islanders may use another unique identification number for each individual eligible for payment)

Exceptions:

- Foreign individuals and members of foreign entities must obtain and provide a Federal ID number (EIN or SSN).
- With regard to contracts on Indian Land, payments exceeding the payment limitation may be made to the Tribal venture if an official of BIA or a Tribal official certifies in writing that no one individual directly or indirectly will receive more than the limitation. The Tribal entity must also provide, annually, a listing of individuals and payments made, by social security number, during the previous year for calculation of overall payment limitations. The Tribal entity must also produce, at the request of NRCS, proof of payments made to the individuals that incurred the costs for installation of the practices.

#### **F. Subsistence Producers**

Individuals and families engaged in agricultural production for subsistence purposes are eligible for EQIP if they meet the requirements of [440-CPM, Section 515.51](#), however the value of the production of food and fiber had it been sold may be used to document the \$1,000 requirement if the production is:

- (i) The primary source of family consumption and use or
- (ii) Used in barter and trade.

#### **G. Squatters or Tenants by Sufferance**

(1) The applicant must meet all of the following conditions:

- (i) Be an eligible producer according to [440-CPM, Section 515.51](#).
- (ii) Have legal access to the land being offered for enrollment.

(2) Determine EQIP eligibility according to the following table:

<b>IF the applicant...</b>	<b>THEN the applicant is...</b>
Has control of the land being offered for enrollment with the knowledge and consent of the owner.	Eligible.
Is on the land being offered for enrollment without the knowledge and consent of the owner.	Ineligible.

#### **H. Indians and Indian Tribes**

Indians and Indian tribes are eligible producers if any of the following apply:

- (i) The Indian tribe owns or has control of the eligible land. (See [440-CPM, Section 515.51](#)).
- (ii) An individual Indian on tribal land meets the requirements of [440-CPM, Paragraph 515.51](#).
- (iii) An individual Indian on non-tribal lands meets the requirements of [440-CPM, Paragraph 515.51](#).
- (iv) An individual or entity having grazing authority on tribal land is eligible as a tenant to perform practices on the land if the lease or permit is issued by an appropriate tribal or Bureau of Indian Affairs official.

#### **I. Cooperative Grazing Associations or Districts**

A cooperative grazing association or district is eligible if either of the following applies:

- (i) The requirements of [440-CPM, Section 515.51](#) have been met.
- (ii) It serves as the decision-maker on behalf of its members, and the members meet the requirements of [440-CPM, Section 515.51](#).

## **J. Organized Districts**

Individuals or entities may be eligible for EQIP on facilities owned by districts (such as Irrigation Districts, Soil and Water Conservation Districts, or Drainage Districts) provided that both of the following apply:

- (i) The individuals or entities are otherwise eligible according to this section.
- (ii) The individual or entity is one of the following:
  - A member of the district.
  - An owner or operator of the land located within the district.

## **K. Clubs and Organizations**

Clubs and organizations such as 4-H clubs, FFA chapters, scout troops, and sportsmen's clubs are eligible providing that all of the following apply:

- (i) The club or organization meets the requirements in [440-CPM, Section 515.51](#).
- (ii) A list of all members is provided along with the Social Security Number of all members and the percentage of interest of all members, or who are otherwise eligible in accordance with [440-CPM, Section 515.51](#).
- (iii) An adult who officially represents the organization signs all of the required forms.

## **L. Minors**

A minor is eligible only if the minor is legally responsible and is independently participating in the operation of the farm or ranch as an eligible individual.

## **M. Protecting Interests of Tenants and Sharecroppers**

(1) The interests of tenants and sharecroppers must be safeguarded so that they may share, on a fair and equitable basis, in EQIP payments. This is a requirement of the Food Security Act of 1985, as amended in 1996. NRCS shall not approve contracts with landlords who:

- (i) Do not give tenants and sharecroppers an opportunity to participate in EQIP.
- (ii) Reduce the number of tenants and sharecroppers in anticipation of EQIP participation.

(2) If there is a dispute between landlord and tenant or sharecropper, NRCS will not approve the EQIP contract until the landlord and tenant or sharecropper resolve their dispute. Landlord and tenant or sharecropper provisions do not apply when the tenant or sharecropper:

- (i) Was removed for cause as determined by the regional attorney according to State law.
- (ii) Left the farm voluntarily without any coercion from the landlord.

**Note:** A signed statement by the tenant or sharecropper voluntarily relinquishing his or her rights to the farm or EQIP benefits is sufficient evidence to show voluntary removal.

## **N. Participation by NRCS Employees**

NRCS employees who meet the producer eligibility requirements of the program may be eligible for the program. However, they must follow the ethics guidance contained in [General Manual Title 110, Part 405 \(Subpart G\)](#).

[M.440.515.F.51 Amendment 35 - October 2006]